

HOUSE BILL 801

E2

11r2654
CF 11r1128

By: **Delegates Valentino–Smith, Alston, Healey, Parrott, Simmons, V. Turner,
Vallario, Washington, and Wilson**

Introduced and read first time: February 11, 2011

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Victims’ Rights – Enforcement**

3 FOR the purpose of expanding the applicability of certain appeal rights from a victim
4 of a violent crime to a victim of a crime; authorizing a certain victim to appeal
5 to the Court of Special Appeals from a certain final order; providing that the
6 filing of a certain appeal or application for leave to appeal does not stay certain
7 other proceedings unless the court finds that the accused’s rights to a speedy
8 trial or adjudication will not be violated; requiring a certain court to ensure that
9 a certain victim is afforded the rights provided by law in a certain court
10 proceeding; providing that, if a court finds that a victim’s right was not
11 considered or was denied, the court may grant the victim relief provided the
12 remedy does not violate a defendant’s or child respondent’s certain
13 constitutional right; prohibiting a court from providing a remedy that modifies a
14 certain sentence or commitment unless the victim requests relief from a
15 violation of the victim’s right within a certain number of days of the alleged
16 violation; providing for the application of this Act; and generally relating to
17 victims’ rights.

18 BY repealing and reenacting, with amendments,
19 Article – Criminal Procedure
20 Section 11–103
21 Annotated Code of Maryland
22 (2008 Replacement Volume and 2010 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article – Criminal Procedure**

26 11–103.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) (1) In this section, [“violent crime”] **“CRIME”** means:

2 (i) a crime [of violence]; **OR**

3 (ii) a delinquent act that would be a crime [of violence] if
4 committed by an adult[; or

5 (iii) except as provided in paragraph (2) of this subsection, a
6 crime or delinquent act involving, causing, or resulting in death or serious bodily
7 injury].

8 (2) [“Violent crime”] **“CRIME”** does not include an offense under the
9 Maryland Vehicle Law or under Title 8, Subtitle 7 of the Natural Resources Article
10 unless the offense is punishable by imprisonment.

11 (b) Although not a party to a criminal or juvenile proceeding, a victim of a
12 [violent] crime for which the defendant or child respondent is charged may file an
13 application for leave to appeal to the Court of Special Appeals from an interlocutory
14 **ORDER or APPEAL TO THE COURT OF SPECIAL APPEALS FROM A** final order that
15 denies or fails to consider a right secured to the victim by § 4–202 of this article, §
16 11–102, § 11–104, § 11–302, § 11–402, § 11–403, § 11–404, or § 11–603 of this title, §
17 3–8A–06, § 3–8A–13, or § 3–8A–19 of the Courts Article, or § 6–112 of the Correctional
18 Services Article.

19 (c) The filing of an **APPEAL OR** application for leave to appeal under this
20 section does not stay other proceedings in a criminal or juvenile case unless:

21 (1) all parties consent; **OR**

22 (2) **THE COURT FINDS THAT THE ACCUSED’S RIGHTS TO A SPEEDY**
23 **TRIAL OR ADJUDICATION WILL NOT BE VIOLATED.**

24 (d) (1) For purposes of this section, a victim’s representative, including
25 the victim’s spouse or surviving spouse, parent or legal guardian, child, or sibling, may
26 represent a victim of a [violent] crime who dies or is disabled.

27 (2) If there is a dispute over who shall be the victim’s representative,
28 the court shall designate the victim’s representative.

29 (E) (1) **IN ANY COURT PROCEEDING INVOLVING A CRIME AGAINST A**
30 **VICTIM, THE COURT SHALL ENSURE THAT THE VICTIM IS IN FACT AFFORDED**
31 **THE RIGHTS PROVIDED TO VICTIMS BY LAW.**

32 (2) **IF A COURT FINDS THAT A VICTIM’S RIGHT WAS NOT**
33 **CONSIDERED OR WAS DENIED, THE COURT MAY GRANT THE VICTIM RELIEF**

1 PROVIDED THE REMEDY DOES NOT VIOLATE A DEFENDANT'S OR CHILD
2 RESPONDENT'S CONSTITUTIONAL RIGHT TO BE FREE FROM DOUBLE JEOPARDY.

3 (3) A COURT MAY NOT PROVIDE A REMEDY THAT MODIFIES A
4 SENTENCE OF INCARCERATION OF A DEFENDANT OR A COMMITMENT OF A
5 CHILD RESPONDENT UNLESS THE VICTIM REQUESTS RELIEF FROM A VIOLATION
6 OF THE VICTIM'S RIGHT WITHIN 30 DAYS OF THE ALLEGED VIOLATION.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only
8 to any appeal pending or filed on or after the effective date of this Act.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 June 1, 2011.